

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MALIBU TEXTILES, INC.,

Plaintiff,

v.

**CAROL ANDERSON, INC. and
CABI, LLC,**

Defendants.

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Docket No. 07-cv-4780 (SAS)

DECLARATION OF OSWIN FISCHBACH

I, Oswin Fischbach, declare as follows:

1. I am president of Deltex Mills, Inc., a lace and fabric manufacturer with a principal place of business at 25 Corporate Drive, Wayne, New Jersey 07470. I make this declaration on the basis of my own knowledge, except where otherwise indicated.

2. I make this declaration to confirm the contents of an Acknowledgement of Rights that I executed on September 20, 2005. A true copy of the Acknowledgement of Rights is attached as Exhibit A.

3. Prior to my employment at Deltex Mills, Inc., I was co-owner of a lace and fabric knitting company named Linfalls Knitting Mills, Ltd. ("Linfalls") Linfalls ceased operations in or around 2001.

4. In 1998, Linfalls was approached by Paris Lace, Inc. to obtain and knit an original floral lace design on behalf of one of its clients, Malibu Textiles, Inc. ("Malibu") Either myself or my partner Rolf Mueller contacted Jolanda Kramm, a designer living in Brazil, to create the original floral design for Malibu.

5. Ms. Kramm created two designs that were presented to Malibu. Malibu chose one of the designs to be knit.

6. As is industry practice, at the moment Malibu accepted Ms. Kramm's design, it was expected that Ms. Kramm would assign and transfer to Malibu any ownership rights that she had in that lace design, including but not limited to any copyright rights, the right to file copyright applications for the design in the United States and elsewhere in the world, and the right to file lawsuits based upon past, present and future infringement.

7. Likewise, to the extent that Linfalls obtained any rights (including any rights under copyright law) in Ms. Kramm's lace design because it contracted with Ms. Kramm, Linfalls assigned and transferred any and all such rights to Malibu when Malibu accepted Ms. Kramm's design.

8. After the lace design was accepted by Malibu, Linfalls commissioned and paid Ms. Kramm to prepare the "draft" of the lace design. A "draft" is a technical drawing regarding how to construct the lace design on a knitting machine.

9. Once the draft was completed, Linfalls did the initial knitting of the lace fabric based upon Ms. Kramm's design. I recognize the sketch attached hereto as Exhibit B as the design that was created by Ms. Kramm and knit by Linfalls.

10. Linfalls has never disputed Malibu Textiles, Inc.'s ownership rights in the lace design created by Ms. Kramm.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 15th day of April, 2008.


OSWIN FISCHBACH